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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Plaintiff,

v.

EMILY CEDARLEAF and MULTI FAMILY
HOUSING COUNCIL OF OREGON,

Defendants.

CV '04 784
CV.

**COMPLAINT FOR
PERMANENT INJUNCTION**

The United States of America, by the undersigned counsel, alleges as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter to enjoin Emily Cedarleaf
("Cedarleaf") and Multi Family Housing Council of Oregon ("MFHCO") from interfering with

COMPLAINT FOR
PERMANENT INJUNCTION

the administration of the internal revenue laws pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. (Internal Revenue Code) § 7402.

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1396 because a substantial part of the events or omissions giving rise to the United States' claim occurred, and continues to occur, within this judicial district and because the defendants may be found within this judicial district.

3. This action is commenced at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of a delegate of the Attorney General pursuant to Internal Revenue Code Section 7401.

II. DEFENDANTS

4. Defendant MFHCO is an Oregon corporation and is a service business which provides forms and training classes statewide to property management firms and rental property owners. Its place of business is in Salem, Oregon.

5. Defendant Cedarleaf is the owner and Executive Director of MFHCO. Defendant Cedarleaf resides in Salem, Oregon. Defendant Cedarleaf is being named as a defendant because she is in a position to ensure that MFHCO complies with the internal revenue laws.

III. CLAIM FOR PERMANENT INJUNCTION PURSUANT TO 26 U.S.C SECTION 7402(a)

6. The United States seeks a permanent injunction requiring MFHCO and Cedarleaf, as well as anyone else acting in concert with them, to resume (a) withholding federal employment taxes from MFHCO's employees' wages; (b) filing timely and accurate federal employment and unemployment tax returns (Forms 940 and 941) for MFHCO; (c) filing timely

and accurate wage and tax statements (Forms W-2) for MFHCO; and (d) making timely and full payroll tax deposits and payments for MFHCO from the monies it withholds from its employees' wages.

7. This suit is brought under Internal Revenue Code (26 U.S.C.) Section 7402(a), which authorizes the district court to issue, among other things, orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws. To obtain injunctive relief under Section 7402(a), the United States need only satisfy the requirements thereunder.

Employers' Withholding and Filing Obligations

8. Under Internal Revenue Code Sections 3102(a) and 3402(a), employers are required to withhold federal income and Federal Insurance Contributions Act ("FICA") taxes from their employees' wages as and when wages are paid. Under Internal Revenue Code Section 7501(a), employers are to hold these withheld taxes in trust for the United States.

9. In addition to withholding their employees' share of FICA taxes, under Internal Revenue Code Section 3111, employers are required to pay their own share of FICA taxes.

10. Under Internal Revenue Code Section 6302 and the Treasury Regulations (26 C.F.R.) promulgated thereunder, employers are generally required to deposit the withheld income taxes and the FICA taxes either monthly or semi-weekly.

11. Under Internal Revenue Code Sections 6011(a) and 6071(a) and the Treasury Regulations promulgated thereunder, employers are required to file Forms 941 (Employer's Quarterly Federal Tax Returns) quarterly to report the income and FICA taxes withheld from their employees' wages and their own share of FICA taxes.

12. In addition to FICA taxes, under Internal Revenue Code Section 3301, employers are required annually to pay Federal Unemployment Tax Act ("FUTA") taxes.

13. Under Internal Revenue Code Sections 6011(a) and 6071(a) and the Treasury Regulations promulgated thereunder, employers are required to file annual Forms 940 (Employer's Annual Federal Unemployment Tax Returns) to report their FUTA taxes.

14. Under Internal Revenue Code Section 6151(a), employers are required to pay any taxes due on their Forms 941 and 940 without assessment or notice and demand from the Internal Revenue Service and pay them no later than the time they are required to file the returns.

**MFHCO's and Cedarleaf's Defiance
of the Internal Revenue Laws**

15. MFHCO and Cedarleaf have only sporadically complied with the above withholding requirements, failed to file required returns or filed them late, and have not fully paid the required taxes or paid them only through enforced collection efforts by the IRS since 1999 after they withheld the monies from MFHCO's employees' wages.

16. Since 1999, MFHCO and Cedarleaf have filed 940 and 941 returns which show total taxes due in the amount of \$406,546.90. However, the outstanding liability is \$418,064.43, and although some of the liability has been paid, the payments were made for the most part due to forced collection actions by the IRS. These amounts do not include amounts due for employment taxes for tax periods in which Forms 941 have not been filed and does not include amounts due for unemployment taxes for years for which Forms 940 have not been filed.

17. Following is a listing of the tax type, tax periods, return due date, date return actually filed, amount of tax due listed on return, and amount still due and owing for each period

as of May 15, 2004:

<u>Type of Tax</u>	<u>Tax Period</u>	<u>Return Due Date</u>	<u>Return Filed</u>	<u>Tax Due as Shown on Return</u>	<u>Amount Due</u>
941	03/31/99	04/30/99	05/31/99	\$22,654.77	Paid
	06/30/99	07/31/99	11/27/00	\$27,567.66	Paid
	09/30/99	10/31/99	05/14/01	\$29,224.75	\$18,275.89
	12/31/99	01/31/00	09/11/00	\$29,664.06	Paid
	03/31/00	04/30/00	09/11/00	\$27,125.10	\$15,325.86
	06/30/00	05/31/00	09/11/00	\$27,567.66	Paid
	09/30/00	10/31/00	11/27/00	\$29,224.81	\$15,622.46
	12/31/00	01/31/01	05/14/01	\$21,194.18	\$26,400.93
	03/31/01	04/30/01	04/08/02	\$29,625.96	\$55,680.67
	06/30/01	07/31/01	04/15/02	\$23,427.84	\$43,316.60
	09/30/01	10/31/01	04/08/02	\$31,718.03	\$56,172.83
	12/31/01	01/31/02	04/08/02	\$22,262.89	\$35,505.42
	03/31/02	04/30/02	07/08/02	\$21,042.40	\$31,691.98
	06/30/02	07/31/02	02/03/03	\$16,102.29	\$25,852.79
	09/30/02	10/31/02	01/27/03	\$20,925.14	\$29,343.22
	12/31/02	01/31/03	06/23/03	\$20,850.48	\$32,004.19
	03/31/03	04/30/03	07/21/03	\$16,330.34	\$21,881.91
	06/30/03	07/31/03	UNFILED	UNKNOWN	UNKNOWN
	09/30/03	10/31/03	UNFILED	UNKNOWN	UNKNOWN

	12/31/03	01/31/04	UNFILED	UNKNOWN	UNKNOWN
940	12/31/99	01/31/00	9/18/00	\$2,727.10	\$10,989.68
	12/31/00	01/31/01	UNFILED	UNKNOWN	UNKNOWN
	12/31/01	01/31/02	UNFILED	UNKNOWN	UNKNOWN
	12/31/02	01/31/03	UNFILED	UNKNOWN	UNKNOWN
	12/31/03	01/31/04	UNFILED	UNKNOWN	UNKNOWN

18. There remains due and owing from MFHCO, for both employment and unemployment taxes, the amount of \$ 418,064.43 as of May 15, 2004, plus interest and other statutory additions accrued thereafter as provided by law.

19. Since as early as 2001, the Internal Revenue Service has repeatedly warned MFHCO and Cedarleaf that they are required to withhold payroll taxes from MFHCO's employees' wages, file accurate returns, and pay any taxes due.

20. MFHCO and Cedarleaf may not have withheld payroll taxes, but refused to file accurate returns and refused to pay employment and unemployment taxes (including but not limited to paying over to the government the monies withheld from MFHCO's employees' wages).

Irreparable Harm to the United States

21. MFHCO presently has tax liabilities of \$ 418,064.43 as of May 15, 2004, plus interest and other statutory additions accrued thereafter as provided by law.

22. While the Internal Revenue Service has statutory enforcement procedures by which it may seek administratively to collect past tax liabilities, these administrative procedures

are inadequate to prevent either MFHCO or Cedarleaf from continuing to accumulate further tax liabilities for MFHCO, and are also inadequate to force either MFHCO or Cedarleaf to resume their tax withholding, filing, and payment obligations as an employer.

23. MFHCO's and Cedarleaf's flouting of the internal revenue laws, unless enjoined, will continue to interfere with the enforcement and administration of the internal revenue laws.

24. MFHCO's and Cedarleaf's flouting of the internal revenue laws, unless enjoined, will continue to cause irreparable harm to the United States, both in terms of loss in tax revenue and of additional tax enforcement expenditures, neither of which will be fully recovered.

25. MFHCO's and Cedarleaf's flouting of the internal revenue laws, unless enjoined, will continue to cause hardship on HMCO's employees, who must determine their own tax liabilities without the benefit of Forms W-2 and income and FICA tax withholding, and who require proper employer reporting of wages in order to obtain the Social Security and Medicare benefits to which they are entitled.

26. Neither MFHCO nor Cedarleaf will be harmed by a permanent injunction compelling them to obey the internal revenue laws.

27. A permanent injunction against MFHCO and Cedarleaf therefore, is necessary and appropriate for the enforcement of the internal revenue laws, and, thus, is in the public interest.

Wherefore, the United States respectfully prays that:

A. That this Court enter a permanent injunction under Internal Revenue Code Section 7402(a) enjoining and restraining the defendants Multi Family Housing Council of Oregon and Emily Cedarleaf and those persons in active concert or participation with them from (i) failing to

pay timely the future withholding and Federal Insurance Contributions Act (“FICA”) and Federal Unemployment Tax Act (“FUTA”) tax liabilities of Multi Family Housing Council of Oregon;

(ii) transferring any money or property to any entity for the purpose of having that entity pay net salaries or net wages of any employee of Multi Family Housing Council of Oregon; and

(iii) assigning any property or rights to property or making any disbursements for any purpose after the date of the order rendering injunctive relief until the amounts required to be withheld from the wages, salaries, or other compensation of the employees of Multi Family Housing Council of Oregon after such date (whether the wages, salaries, or other compensation are paid by Emily Cedarleaf or Multi Family Housing Council of Oregon or any other entity) are first paid to the Internal Revenue Service;

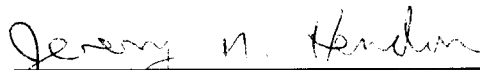
B. That this Court order Emily Cedarleaf and Multi Family Housing Council of Oregon and every other person authorized to sign checks on any account from which employees or creditors of Multi Family Housing Council of Oregon are paid, to file a statement with a Revenue Officer of the Internal Revenue Service in Salem, Oregon, to the effect that they have read the order of the Court granting injunctive relief sought by the United States, that they will personally determine each pay period that the withheld FICA and withholding tax liabilities for every pay period after the date of the order granting the permanent injunction have been fully paid to the Internal Revenue Service by certified or cashier’s check prior to signing checks for the disbursement of any other funds, and that they will not assign or transfer any property or rights to property of Multi Family Housing Council of Oregon after the date of this Court’s order unless all taxes for every pay period after the order of injunction have been paid;

C. That this Court order, in addition to any other sanction allowable by law, that, in the event the defendants or their officers, agents, servants, or employees and all those persons in active concert with the defendants fail to comply with this Court's order, the United States may enter upon the property of the Multi Family Housing Council of Oregon and seize and sell the property of the Multi Family Housing Council of Oregon to ensure compliance with the internal revenue laws and prevent the further pyramiding of Multi Family Housing Council of Oregon's tax liabilities; and

D. This Court award the United States its costs and such other relief as is just and proper.

DATED this 9th day of June, 2004.

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